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FISCAL IMPACT STATEMENT

LS 6778

BILL NUMBER: HB 1114

NOTE PREPARED: Jan 18, 2006

BILL AMENDED: Jan 17, 2006

SUBJECT: Various Property Matters.

FIRST AUTHOR: Rep. Foley

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill specifies the language sufficient to incorporate by reference a recorded covenant, restriction, easement, or other encumbrance in a conveyance of land. It provides that an adverse possessor or claimant who wishes to establish title to land or real estate must pay the taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the land or real estate. (Current law requires the adverse possessor or claimant to pay the taxes and special assessments due on the land or real estate.)

The bill reduces the standard for the redaction of Social Security numbers in recorded documents from "to the extent possible" to "to the extent practicable". It adds a culpability standard for the Class A infraction that may be committed when recorded documents containing Social Security numbers are disclosed by the county recorder's office.

The bill repeals the duty of an individual preparing a document for recording to affirm under perjury that the individual has reviewed the document and redacted each Social Security number in the document. It repeals the prohibition on accepting a document for recording that does not have the affirmation. It repeals the recording fee imposed under the law concerning recording documents containing Social Security numbers.

The bill provides that a county recorder shall charge a fee for recording a document. The bill provides the methods of payment that a county recorder may authorize that it may be paid with. The bill provides that a county recorder may collect a sum if it is charged a fee for the use of a financial instrument or credit card. The bill repeals the duty of an individual preparing a document for recording to affirm under perjury that the individual has reviewed the document and redacted each Social Security number in the document. The bill

repeals the prohibition on accepting a document for recording that does not have the affirmation.

Effective Date: (Amended) Upon passage; January 1, 2006 (retroactive); July 1, 2006.

Explanation of State Expenditures:

Explanation of State Revenues: *Penalty Provision:* This provision reduces the number of people who could potentially be convicted of committing a Class A infraction. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund.

Explanation of Local Expenditures: *County Recorders:* Under current law, beginning January 1, 2008, county recorders will be responsible for searching documents for a Social Security number, redacting documents that contain the number, and recording certification that the individual reviewed the entire document and took reasonable care to redact the Social Security number. Current law also provides for county recorders to comply "to the extent *possible*."

This bill makes it so that county recorders comply "to the extent *practicable*." This provision may somewhat mitigate costs associated with redacting records. However, the bill repeals the requirement that a document must be redacted and have the certification attached before it may be accepted by a county recorder. The provision could potentially increase the number of documents a county recorder must redact.

Explanation of Local Revenues: (Revised) *County Recorders:* Current law requires county recorders, as of January 1, 2006, to charge a fee for recording documents containing Social Security numbers. Two dollars of the fee would be placed in the county's identification security protection fund, which would be used by the county recorder to purchase, upgrade, implement, or maintain redacting technology. This bill repeals the sections of current code that allow the fee and establish the fund. The loss of future revenue is dependent on the number of documents containing Social Security numbers recorded per county.

Payment Method: Under the bill, county recorders could accept payment for transactions by cash, check, bank draft, money order, bank/credit card, electronic fund transfer, or by any other authorized financial instrument. Recorders would be allowed to charge a fee on transactions involving credit cards or bank transfers to cover the transaction costs for providing the service. The fee would not exceed the highest transaction charge or discount fee charged to a recorder by a bank or credit card vendor.

Penalty Provision: This provision reduces the number of people who could potentially be convicted of committing a Class A infraction. Local governments receive revenue from court fees when court actions are filed and a judgment is entered.

State Agencies Affected:

Local Agencies Affected: County recorders, trial courts, local law enforcement agencies.

Information Sources:

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